

Internal Revenue Service**Department of the Treasury**District
Director

Date: FEB 6-1985

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Gentlemen:

We have considered your application for recognition of exemption under section 501(c)(10) of the Internal Revenue Code of 1954. The documents submitted indicate you were formed on [REDACTED] as an association pursuant to Chapter [REDACTED], [REDACTED]. Your stated purposes are to provide an entity comprised of Unit Owners of the [REDACTED] to manage and regulate the Condominium. The activities of the association are to provide for the operation, care, upkeep and maintenance of the Common Elements of the Condominium; to purchase insurance for the protection of the Association and its members and to provide management services for the benefit of your members. Membership in your association consists of all of the record owners of units, and is established by recording of a deed or other instrument which designates the individual who holds title to the unit. Your income will consist of monthly assessments from members for the aforementioned services, and your funds will be expended exclusively for maintenance services and related expenses. Any excess income will be set aside as a reserve fund for future maintenance and/or improvements.

Section 501(c)(10) of the Code provides for the exemption from Federal income tax domestic fraternal societies, orders, or associations operating under the lodge system, the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and which do not provide for the payment of life, sick, accident, or other benefits. We conclude that because you are not operated under the lodge system, you do not qualify for recognition of exemption under section 501(c)(10) of the Code.

Consideration has also been given to qualification under section 501(c)(4) of the Internal Revenue Code. Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 501(c)(4)-1(a)(2) of the Income Tax Regulations states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. To qualify for exemption as a homeowners association under section 501(c)(4) of the Code, the association must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental; it must not conduct activities directed to the exterior maintenance of private residences; and the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public. The concept of social welfare implies a service or program directed at benefitting the community rather than a private group of individuals.

Your organization operates essentially for the private economic benefit and convenience of the unit owners by providing a service that your members would otherwise have to provide for themselves and increases the value of the individual property owner's condominium unit. Accordingly, it is held that you do not qualify for exemption under section 501(c)(4) or any other section of the Internal Revenue Code.

It appears that your organization may elect to file under section 528 to receive certain tax benefits which, in effect, permit the exclusion of exempt function income from gross income. The election to file under section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations. However, if you do not elect to file under section 528, you are required to file Federal Income Tax returns on Form 1120.

If you are in agreement with our findings, please sign, date and return one copy of the enclosed Form 6018.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

(3)

If we do not hear from you within that time, this determination will become final.

Sincerely yours,

/s/

District Director

Enclosures:
6018(2)
Publication 892